UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JAN 15 2014

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Ms. Laura M. Vélez Vélez, Esq.
President
Puerto Rico Environmental Quality Board
P.O. Box 11488
San Juan, Puerto Rico 00926-2604

Re: **Certification of Permits to be Issued Under Section 402 of the Clean Water Act**

Dear Ms. Vélez:

The United States Environmental Protection Agency (EPA) has received an application for a permit renewal under the National Pollutant Discharge Elimination System (NPDES) from the following discharger in the Commonwealth:

Discharge and Location	Applicant	NPDES Permit Number
Buckeye Caribbean Terminals LLC State Road Number 901, Km. 2.7, Yabucoa, Puerto Rico 00767	Buckeye Caribbean Terminals LLC	PR0000400

The application consists of application Form 1, Form 2C (Outfall 001) and Form 2F (Outfalls 001 and 002) for the Buckeye Caribbean Terminals LLC facility with NPDES Permit Number PR0000400, submitted under cover letter dated September 20, 2012 with revised application pages/documents (Attachment list and Attachments 1, 2, 4, 5, 6, 8, 9 and 10) submitted under June 19, 2013 cover letter.

We have not enclosed a copy of the referenced application material. A copy was previously sent by the permittee to the Puerto Rico Environmental Quality Board (i.e., Robert Ayala was copied on the September 20, 2012 application and Wanda Garcia on the June 19, 2013 application). We have enclosed the findings of our own reasonable potential analysis and will also email a copy to the chief, Point Sources Permits Division. The analysis was performed utilizing the tool which we demonstrated to your agency last year. The program utilizes Discharge Monitoring Report data from the last five years as retrieved from the ICIS data system. We would direct your attention to columns J and L when reviewing the tables. Column J provides the Technical Support Document Estimated 95th Percentile Effluent Concentration. Column L shows the Puerto Rico Water Quality Standards (2010). We hope that you will find the information useful for your analysis.

Pursuant to Section 401 of the Clean Water Act (the Act), before the Environmental Protection

Agency can issue or deny any NPDES permit, your agency must, for the discharger listed above:

(1) certify that the discharges will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Act; or

(2) certify that there are no applicable effluent or other limitations under Sections 301(b) and 302 and there are no applicable standards under Sections 306 and 307 of the Act; or

(3) deny such certification; or

(4) waive its right to certify or to deny such certification.

I request that your agency examine the enclosed material and provide the certification required by Section 401 of the Act for the discharger listed above. Your certification should be provided in writing and be addressed to:

Kate Anderson, Chief
Clean Water Regulatory Branch, 24th Floor
U.S. Environmental Protection Agency
290 Broadway
New York, New York 10007-1866

Section 301(b)(1)(C) of the Act requires that there shall be achieved effluent limitations "necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations...or required to implement any applicable water quality standard established pursuant to this Act."

Furthermore, Section 401(d) of the Act provides that:

> "Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under Section 301 or 302 of this Act, standard of performance under Section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under Section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section." (Emphasis added.)

Therefore, your agency is required by law to provide effluent and other limitations necessary to assure that the applicant will comply with all the requirements (including, of course, water quality standards) set forth in the above-quoted sections. Certification should be denied only when there are no conditions which can assure compliance with appropriate requirements. If certification is denied, no NPDES permit will be granted and the applicant will be so informed.

In accordance with NPDES regulations on State certification, your agency's right to grant or deny certification will be deemed waived unless exercised within a specified reasonable time.

The regulations (see 40 CFR §124.53(c)(3)) define that reasonable time to "not exceed 60 days from the date the draft permit is mailed to the certifying State agency unless the Regional Administrator finds that unusual circumstances require a longer time."

Nonetheless, if we are to include all conditions and requirements of Commonwealth law in the draft and, at the same time, comply with these regulations, we must receive your technical comments and tentative certification relating to the discharger enumerated above before we issue any public notice of a draft permit. Therefore, we must receive your technical comments and tentative certification relating to the discharger enumerated above within sixty (60) days of the date of this letter. Otherwise, we shall proceed with a separate public notice.

Any certification you submit to EPA within that time frame, even though tentative, should be as complete as possible. It should not merely be in the form of a letter indicating effluent or other limitations which your agency would recommend for inclusion in a NPDES permit. The NPDES regulations are very specific about the requirement that States clearly identify what conditions are necessary to meet State law. 40 CFR §124.53(e) requires that State certification shall be made in writing and shall include:

(1) "Conditions which are necessary to assure compliance with the applicable provisions of CWA Sections 208(e), 301, 302, 303, 306 and 307 and with appropriate requirements of State law;"

(2) "When the State certifies a draft permit instead of a permit application, any conditions more stringent than those in the draft permit which the State finds necessary to meet the requirements listed in paragraph (e)(1) of this section. For each more stringent condition, the certifying State agency shall cite the CWA or State law references upon which that condition is based. Failure to provide such a citation waives the right to certify with respect to that condition;" and

(3) "A statement of the extent to which each condition of the draft permit can be made less stringent without violating the requirements of State law, including water quality standards. Failure to provide this statement for any condition waives the right to certify or object to any less stringent condition which may be established during the EPA permit issuance process." (Emphasis added.)

To summarize, if we receive your tentative certification relating to the discharger identified above within 60 days of the date of this letter and conditions necessary to meet Commonwealth law are identified in accordance with the specificity required by 40 CFR §124.53(e), we shall be able to include all Commonwealth requirements in our draft permit. Otherwise, we shall proceed to public notice without benefit of your tentative certification.

Whether or not we are constrained to proceed to public notice without your tentative certification, the right of your agency to grant or deny certification will be deemed waived unless exercised within sixty days following the date copies of any draft permit are sent to your agency. Furthermore, if your agency, in that 60-day time frame, does not provide the detail in its certification required by 40 CFR §124.53(e) with respect to any term or condition of the draft

permit, the right of your agency to grant or deny certification with respect to such term or condition shall be deemed waived.

Please give this matter your prompt attention. Your cooperation is essential if the Congressionally-mandated goals for pollution abatement are to be met.

Sincerely yours,

Kate Anderson, Chief
Clean Water Regulatory Branch

Enclosure

cc: Ms. Annette Feliberty Ruiz
Chief, Point Source Permits Division, Puerto Rico Environmental Quality Board (w/ enclosures)
Certified Mail Return Receipt Requested

	A	B	C	D	E	F	G	H	I	J	K	L	M
1													
9				EFFLUENT									NUMERIC & NARRATIVE WATER QUALITY STANDARDS
10	Pollutant	Parameter Code	Parameter	Total # of Results	# of NODI Code Results (Excluding NODI B & NODI Q)	# of Non-Detect Results (NODI B & NODI Q only)	# of Numeric Results	# of <, >, and E Qualifiers	Max. Effluent Conc. (Quantifiable and Non-Quantifiable Values Only)	TSD Estimated 95th Percentile Effluent Conc.	TSD Estimated 95th Percentile Effluent Conc. (At the edge of the mixing zone, N/A for this discharge)	Units (Effluent Data Set)	Puerto Rico Water Quality Standards (2010), Rule 1303, Sections 1 and 2
11	Solids, total dissolved	70295	Solids, total dissolved										None
12		70300	Solids, total dissolved- 180 deg. C										
13	Phosphorus, total (as P)	00665	Phosphorus, total (as P)										None
14	Surfactants (MBAS)	38260	Surfactants (MBAS)										Other: Shall not exceed 500 ug/L.
15	Nitrogen, ammonia total (as N)	82230	Ammonia & ammonium- total										None
16		00609	Ammonia nitrogen, total, (as N) 30 day										
17		00619	Ammonia, unionized										
18		00610	Nitrogen, ammonia total (as N)										
19	Antimony, total (as Sb)	01097	Antimony, total (as Sb)										Human Health: 640 ug/L
20		01268	Antimony, total recoverable										
21	Arsenic, total (as As)	01002	Arsenic, total (as As)										Aquatic Life: 36 ug/L
22		00978	Arsenic, total recoverable										
23	Cadmium, total (as Cd)	01027	Cadmium, total (as Cd)	58	4	0	54	8	2.2	2.4500	N/A	ug/L	Aquatic Life: 8.85 ug/L
24		01113	Cadmium, total recoverable										
25	Cyanide, free available	00722	Cyanide, free (amen. to chlorination)										Aquatic Life: 1 ug/L
26		51173	Cyanide, free available										
27		00719	Cyanide, free-water plus wastewaters										
28		00720	Cyanide, total (as CN)										
29	Copper, total (as Cu)	01042	Copper, total (as Cu)	58	5	0	53	0	123	198.4380	N/A	ug/L	Aquatic Life: 3.73 ug/L
30		01119	Copper, total recoverable										
31	Chromium, trivalent (as Cr)	51058	Chromium III										None
32		01033	Chromium, trivalent (as Cr)										
33	Chromium, hexavalent (as Cr)	01032	Chromium, hexavalent (as Cr)										Aquatic Life: 50.35 ug/L
34	Chromium, total (as Cr)	01034	Chromium, total (as Cr)										None
35		01118	Chromium, total recoverable										
36	Fluoride, total (as F)	00951	Fluoride, total (as F)	58	4	0	54	0	1720	2402.6269	N/A	ug/L	None
37	Mercury, total (as Hg)	71900	Mercury, total (as Hg)	58	4	0	54	0	4	10.8260	N/A	ug/L	Human Health: 0.051 ug/L
38		71901	Mercury, total recoverable										
39	Nickel, total (as Ni)	01067	Nickel, total (as Ni)										Aquatic Life: 8.28 ug/L
40		01074	Nickel, total recoverable										
41	Nitrite plus nitrate total 1 det. (as N)	00630	Nitrite plus nitrate total 1 det. (as N)										None
42	Nitrogen, inorganic total	00640	Nitrogen, inorganic total	58	4	0	54	0	32800	69022.7174	N/A	ug/L	Aquatic Life: 5,000 ug/L
43	Silver, total (as Ag)	01077	Silver, total (as Ag)	58	4	0	54	5	2	2.0076	N/A	ug/L	Aquatic Life: 2.24 ug/L
44		01079	Silver, total recoverable										
45	Lead, total (as Pb)	01051	Lead, total (as Pb)	58	4	0	54	5	5	6.7917	N/A	ug/L	Aquatic Life: 8.52 ug/L
46		01114	Lead, total recoverable										
47	Selenium, total (as Se)	01147	Selenium, total (as Se)	57	4	0	53	5	235	676.9217	N/A	ug/L	Aquatic Life: 71.14 ug/L
48		00981	Selenium, total recoverable										
49	Thallium, total (as Tl)	01059	Thallium, total (as Tl)										Human Health: 0.47 ug/L
50		00982	Thallium, total recoverable										
51	Zinc, total (as Zn)	01092	Zinc, total (as Zn)	58	4	0	54	0	235	446.5534	N/A	ug/L	Aquatic Life: 85.62 ug/L
52		01094	Zinc, total recoverable										

	A	B	C	D	E	F	G	H	I	J	K	L	M
1													
9				EFFLUENT									NUMERIC & NARRATIVE WATER QUALITY STANDARDS
10	**Pollutant**	**Parameter Code**	**Parameter**	**Total # of Results**	**# of NODI Code Results (Excluding NODI B & NODI Q)**	**# of Non-Detect Results (NODI B & NODI Q only)**	**# of Numeric Results**	**# of <, >, and E Qualifiers**	**Max. Effluent Conc.** (Quantifiable and Non-Quantifiable Values Only)	**TSD Estimated 95th Percentile Effluent Conc.**	**TSD Estimated 95th Percentile Effluent Conc. (At the edge of the mixing zone, N/A for this discharge)**	**Units** (Effluent Data Set)	**Puerto Rico Water Quality Standards (2010), Rule 1303, Sections 1 and 2**
53	Pentachlorophenol	39032	Pentachlorophenol										Aquatic Life: 7.9 ug/L
54	2,4,6-Trichlorophenol	34621	2,4,6-Trichlorophenol										Human Health: 24 ug/L
55	2,4-Dichlorophenol	34601	2,4-Dichlorophenol										Human Health: 290 ug/L
56	2,4-Dimethylphenol	34606	2,4-Dimethylphenol										Human Health: 850 ug/L
57	2-Chlorophenol	34586	2-Chlorophenol										Human Health: 150 ug/L
58	2-Methyl-4,6-dinitrophenol	03615	2-Methyl-4,6-dinitrophenol										Human Health: 280 ug/L
59	2,4-Dinitrophenol	34616	2,4-Dinitrophenol										Human Health: 5,300 ug/L
60	Phenol	34694	Phenol										Human Health: 1,700,000 ug/L
61	Chloride	00940	Chloride (as Cl)										None
62	Chlorine, total residual	50064	Chlorine, free available										None
63		50060	Chlorine, total residual										
64	Phenolics (total recoverable)	34043	Phenolics, total										None
65		32730	Phenolics, total recoverable	58	4	0	54	1	420	706.5571	N/A	ug/L	
66		46000	Phenols										
67	Sulfates	00945	Sulfate, total (as SO4)										Other: For estuarine waters classified SC, sulfates shall not exceed 2,800 mg/L.
68	Sulfide (S) (undissociated H2S)	00745	Sulfide, total (as S)	57	6	0	51	11	7	8.7579	N/A	ug/L	Aquatic Life: 2.0 ug/L
69		51202	Sulfide-hydrogen sulfide (undissociated)										

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11	Solids, total dissolved	70295	Solids, total dissolved										Other: Shall not exceed 500 mg/L, except by natural causes.
12		70300	Solids, total dissolved- 180 deg. C										
13	Phosphorus, total (as P)	00665	Phosphorus, total (as P)										Other: Total phosphorus shall not exceed 1 ppm (mg/L), in surface water bodies upstream from reservoirs, in segments of surface water bodies with drinking water intakes or
14	Surfactants (MBAS)	38260	Surfactants (MBAS)										Other: Shall not exceed 100 µg/L.
15	Nitrogen, ammonia total (as N)	82230	Ammonia & ammonium- total										Other: Total ammonia shall not exceed 1 mg/L upstream from the points given by the coordinates of the following segments: 1) Río Cibuco 18° 21' 13" N, 66° 20' 07" W 2) Río Hondo 18° 26' 13" N, 66° 09' 36" W 3) Río Guaynabo 18° 22' 32" N, 66° 07' 59" W 4) Río Bayamón 18° 24' 39" N, 66° 09' 09" W 5) Río Piedras 18° 24' 34" N, 66° 04' 10" W 6) Quebrada Blasina 18° 23' 27" N, 65° 58' 28" W 7) Río Caguitas 18° 15' 11" N, 66° 01' 26" W 8) Río Bairoa 18° 15' 28" N, 66° 02' 13" W 9) Río Chico 17° 59' 16" N, 66° 00' 18" W 10) Río Coamo 18° 03' 52" N, 66° 22' 10" W 11) Río Guayanilla 18° 00' 50" N, 66° 47' 04" W 12) Río Guanajibo 18° 07' 18" N, 67° 03' 56" W
16		00609	Ammonia nitrogen, total, (as N) 30 day										
17		00619	Ammonia, unionized										
18		00610	Nitrogen, ammonia total (as N)										
19	Antimony, total (as Sb)	01097	Antimony, total (as Sb)										Human Health: 5.6 ug/L
20		01268	Antimony, total recoverable										
21	Arsenic, total (as As)	01002	Arsenic, total (as As)										Drinking Water: 10 ug/L
22		00978	Arsenic, total recoverable										
23	Cadmium, total (as Cd)	01027	Cadmium, total (as Cd)										Aquatic Life: 0.9191 ug/L
24		01113	Cadmium, total recoverable										
25	Cyanide, free available	00722	Cyanide, free (amen. to chlorination)										Aquatic Life: 5.2 ug/L
26		51173	Cyanide, free available										
27		00719	Cyanide, free-water plus wastewaters										
28		00720	Cyanide, total (as CN)										
29	Copper, total (as Cu)	01042	Copper, total (as Cu)										Aquatic Life: 11.95 ug/L
30		01119	Copper, total recoverable										
31	Chromium, trivalent (as Cr)	51058	Chromium III										Aquatic Life: 76.13 ug/L
32		01033	Chromium, trivalent (as Cr)										
33	Chromium, hexavalent (as Cr)	01032	Chromium, hexavalent (as Cr)										Aquatic Life: 11.43 ug/L
34	Chromium, total (as Cr)	01034	Chromium, total (as Cr)										None
35		01118	Chromium, total recoverable										
36	Fluoride, total (as F)	00951	Fluoride, total (as F)										Drinking Water: 4,000 ug/L
37	Mercury, total (as Hg)	71900	Mercury, total (as Hg)										Human Health: 0.050 ug/L
38		71901	Mercury, total recoverable										
39	Nickel, total (as Ni)	01067	Nickel, total (as Ni)										Aquatic Life: 51.7 ug/L
40		01074	Nickel, total recoverable										
41	Nitrite plus nitrate total 1 det. (as N)	00630	Nitrite plus nitrate total 1 det. (as N)										Drinking Water: 10,000 ug/L
42	Nitrogen, inorganic total	00640	Nitrogen, inorganic total										None
43	Silver, total (as Ag)	01077	Silver, total (as Ag)										Aquatic Life: 0.03291 ug/L
44		01079	Silver, total recoverable										
45	Lead, total (as Pb)	01051	Lead, total (as Pb)										Aquatic Life: 0.8807 ug/L
46		01114	Lead, total recoverable										
47	Selenium, total (as Se)	01147	Selenium, total (as Se)										Aquatic Life: 5.0 ug/L
48		00981	Selenium, total recoverable										
49	Thallium, total (as Tl)	01059	Thallium, total (as Tl)										Human Health: 0.24 ug/L
50		00982	Thallium, total recoverable										
51	Zinc, total (as Zn)	01092	Zinc, total (as Zn)										Aquatic Life: 104.7 ug/L
52		01094	Zinc, total recoverable										

	A	B	C	D	E	F	G	H	I	J	K	L	M
1													
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53	Pentachlorophenol	39032	Pentachlorophenol										Drinking Water: 1.0 ug/L
54	2,4,6-Trichlorophenol	34621	2,4,6-Trichlorophenol										Human Health: 14 ug/L
55	2,4-Dichlorophenol	34601	2,4-Dichlorophenol										Human Health: 77 ug/L
56	2,4-Dimethylphenol	34606	2,4-Dimethylphenol										Human Health: 380 ug/L
57	2-Chlorophenol	34586	2-Chlorophenol										Human Health: 81 ug/L
58	2-Methyl-4,6-dinitrophenol	03615	2-Methyl-4,6-dinitrophenol										Human Health: 13 ug/L
59	2,4-Dinitrophenol	34616	2,4-Dinitrophenol										Human Health: 69 ug/L
60	Phenol	34694	Phenol										Human Health: 21,000 ug/L
61	Chloride	00940	Chloride (as Cl)										Other: Shall not exceed 250 mg/L, except by natural causes.
62	Chlorine, total residual	50064	Chlorine, free available										None
63		50060	Chlorine, total residual										
64	Phenolics (total recoverable)	34043	Phenolics, total										None
65		32730	Phenolics, total recoverable										
66		46000	Phenols										
67	Sulfates	00945	Sulfate, total (as SO4)										Other: Shall not exceed 250 mg/L, except by natural causes.
68	Sulfide (S) (undissociated H2S)	00745	Sulfide, total (as S)										Aquatic Life: 2.0 ug/L
69		51202	Sulfide-hydrogen sulfide (undissociated)										